

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL JORDAN,

Defendant.

CASE NO. CR05-5823RBL

ORDER DENYING MOTION FOR  
RESENTENCING

THIS MATTER is before the Court on pro se Defendant Jordan's Motion for a reduction in Sentence, based on his rehabilitation in custody. Jordan pled guilty to Kidnapping Resulting in Death in 2007. That felony carried a mandatory minimum of life imprisonment. As part of the plea agreement, parties agreed to a sentence of 16-22 years. Jordan was sentenced to 19. He has served 12.

Jordan claims he has been rehabilitated in prison and asks the Court to reduce his sentence by an undetermined amount as a result. He relies on *Pepper v United States*, 131 S.Ct. 1229 (2011) for the proposition that a District Court can consider his post-sentencing conduct in re-sentencing., But as the Government points out, *Pepper* involved a post-*Booker*, post-remand re-sentencing. *Booker* does not apply to Jordan and his sentence has not been set aside.

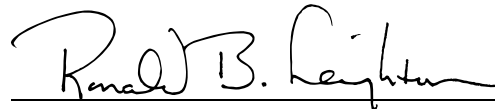
1        Instead, he must clear the twin hurdles of 18 U.S.C. § 3582(c)(2)—a narrow statute  
2 allowing limited adjustments to an otherwise final sentence; it is not authority for a plenary  
3 resentencing proceeding. *See Dillon v. United States*, 560 U.S. 817 (2010).

4        The Government argues that Jordan cannot pass the first test, because the Guidelines  
5 have not been amended in a way that addresses his crime or his sentence. *See* USSG §  
6 1B10(a)(1). None of the amendments applies, and none have the effect of lowering the  
7 defendant’s “applicable guideline range.” USSG § 1B1.10(a)(2).

8        For these and the other reasons identified and articulated in the Government’s response,  
9 the Motion is DENIED.

10       IT IS SO ORDERED.

11       Dated this 23<sup>rd</sup> day of March, 2018.

12  
13       

14       Ronald B. Leighton  
15       United States District Judge  
16  
17  
18  
19  
20  
21  
22  
23  
24